

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

KIM ELLIS  
Plaintiff

JURY TRIAL DEMANDED

Case No.

v.

ENHANCED RECOVERY COMPANY,  
LLC  
Defendant

**COMPLAINT**

**INTRODUCTION**

1. Defendant, Enhanced Recovery Company, LLC ("ERC"), violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

2. ERC is subject to strict liability for sending a collection letter that contained materially false and deceptive information.

**JURISDICTION AND VENUE**

3. The Court has jurisdiction. 15 U.S.C. § 1692k(d); 28 U.S.C. § 1331, § 1367.

4. Venue and personal jurisdiction in this District are proper because the Defendant's collection communications and practices impacted Plaintiff within this District and Defendant transacts business within this District.

**PARTIES**

5. Plaintiff, Kim Ellis ("Ellis"), is a natural person who resides in the Commonwealth of Pennsylvania.

6. Ellis is a consumer as defined in the FDCPA.

7. ERC is a business entity with offices in Jacksonville, FL.

8. ERC acts as a debt collector as defined by § 1692a of the FDCPA because it regularly uses the mails and/or the telephone to collect, or attempt to collect, directly or indirectly, delinquent consumer debts.

#### **STATEMENT OF CLAIM**

9. Ellis allegedly incurred a GE Capital Retail Bank debt that was primarily for personal, family or household purposes, and is therefore a “debt” as that term is defined by 15 U.S.C. § 1692a(5) (the "Debt").

10. On or about December 27, 2013, ERC mailed a collection letter to Ellis in an attempt to collect the Debt (“Dunning Letter”).

11. The Dunning Letter lists the original creditor as “Lowe’s Consumer”.

12. The Dunning Letter lists the creditor as “GE Capital Retail Bank”.

13. The Dunning Letter falsely represents Lowe’s Consumer as the original creditor and thus as a creditor to which Ellis at one point owed a debt.

14. Ellis never owed a debt to Lowe’s Consumer.

15. Lowe's Consumer is not a business entity registered to do business in Pennsylvania.

16. Lowe's Consumer is not a business entity listed with the Federal Deposit Insurance Company.

17. On information and belief, Lowe’s Consumer does not issue credit nor has it ever issued credit and Lowe's Consumer is not a business entity.

18. On information and belief, GE Capital Retail Bank had been the creditor and issuer of consumer credit accounts that were originated at Lowe’s stores at the time Ellis allegedly obtained credit for personal, family or household purposes.

19. It is unlawful for a creditor to seize or repossess items purchased by unsecured debt, or threaten to do the same.

20. By listing Lowe's Consumer as the original creditor, ERC intentionally or negligently intimidated, through the inclusion of the materially false information, that nonpayment of the Debt would result in the seizure of Ellis' property.

**COUNT I – FAIR DEBT COLLECTION PRACTICES ACT**

21. ERC violated 15 U.S.C. § 1692e by using false, deceptive, or misleading representations or means in connection with the collection of a debt as described above.

22. ERC violated 15 U.S.C. § 1692e(2)(A) by falsely representing the character, amount or legal status of a debt as described above.

23. ERC violated 15 U.S.C. § 1692e(4) by representation or implication that nonpayment of a debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action as described above.

24. ERC violated 15 U.S.C. § 1692e(10) by using a false representation or deceptive means to collect or attempt to collect a debt or to obtain information concerning a consumer as described above.

25. ERC violated 15 U.S.C. § 1692f by using unfair and unconscionable means to collect or attempt to collect a debt as described above as described above.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, Kim Ellis, demands judgment against Defendant Enhanced Recovery Company, LLC, LLC for:

- a. Damages;
- b. Attorneys' fees and costs; and
- c. Such other and further relief as the Court shall deem just and proper.

**JURY DEMAND**

Plaintiff demands trial by jury as to all issues so triable.

Respectfully submitted,

Dated: 12/8/2014

By:

/s/ Mark G. Moynihan  
Mark G. Moynihan, Esquire  
Attorney for Plaintiff  
PA 307622  
112 Washington Place, Suite 1-N  
Pittsburgh, PA 15219  
Phone: (412) 889-8535  
Fax: (800) 9978192  
Email: mark@moynihanlaw.net

Signature